

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)		
FOR REVIEW BY:)	CHARGE NO.:	2010CH0616
)	HUD NO.:	050917788
JOE DELGADO)	ALS NO.:	09-0624
)		
Petitioner.)		

ORDER

This matter coming before the Commission by a panel of three, Commissioners Munir Muhammad, Diane M. Viverito, and Nabi Fakroddin, upon Joe Delgado's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2010CH0616; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF JURISDICTION

In support of which determination the Commission states the following findings of fact and reasons:

1. On August 20, 2009, the Petitioner filed an unperfected charge of discrimination with the Respondent. The Petitioner perfected the charge on September 10, 2009. The Petitioner alleged in his charge that the Village of Burnham ("Burnham"), subjected him to discriminatory terms, conditions, privileges, or services and facilities because of his national origin, Mexico, in violation of Section 3-102(B) of the Illinois Human Rights Act (the "Act"). On September 29, 2009, the Respondent dismissed the Petitioner's charge for Lack of Jurisdiction. On November 2, 2009, the Petitioner filed a timely Request.
2. The Petitioner is a resident of and property owner in Burnham. In 2006, Burnham issued the Petitioner various citations for housing code violations. The last time Burnham issued the Petitioner a citation was in November 2006. Thereafter, Burnham commenced court proceedings to enforce the citations.
3. The Petitioner alleged that since September 2008, Burnham has wrongfully enforced and/or prosecuted the aforementioned citations against him; that the Burnham officials are abusing

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

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the property code so as to wrongfully deprive him of his real estate, and that some of the citations were wrongfully initiated. The Petitioner argues Burnham's actions were motivated by the Petitioner's national origin, which is Mexico.

4. In its response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge for lack of jurisdiction because his charge was not timely filed. Pursuant to 775 ILCS 5/7B-102(A), a charge of discrimination related to housing or real estate must be filed within 365 days after the date of the alleged civil rights violation. The Respondent argues the Petitioner's current claims all derive from the issuance of the citations in 2006. The Respondent argues the alleged discriminatory action was the issuance of the citations, and the effect of the alleged discrimination continued when Burnham continued to enforce the citations up until and through 2008. The Respondent argues that the continuing effect of the alleged discriminatory action—which in this case was the issuance of the citations---does not constitute new and additional adverse actions.

CONCLUSION

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of jurisdiction. The Commission agrees that the alleged adverse action was the issuance of the citations by Burnham for the Petitioner's alleged housing code violations. All the matters about which the Petitioner now complains are the continuing effect of the issuance of those citations. However, Burnham's ongoing enforcement of the housing code citations that it issued to the Petitioner does not extend the Petitioner's deadline for filing his charge of discrimination under the Act.

If the Petitioner believed that there was discriminatory motive behind the issuance of the citations, then he was required to have filed a charge with the Respondent within 365 of the final discriminatory action. In this case, the last time Burnham issued the Petitioner a citation was in November 2006. Therefore, the Petitioner was required to have filed his charge by November 2007. The Petitioner did not file the instant charge under review until August 20, 2009, which was well beyond the 365-day time limit that is prescribed by the Act.

Section 7B-102(A) of the Act is jurisdictional and the failure of a complainant to file a charge within the proscribed 365-day time limit deprives the Respondent of jurisdiction to investigate the charge. See Trembczynski v. Human Rights Commission, 252 Ill.App.3d 966, 625 N.E.2d 215, 218 (1st Dist. 1993). Therefore, the Respondent properly dismissed the Petitioner's untimely filed charge for lack of jurisdiction.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of his charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and the Village of Burnham as Respondents with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

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Entered this 12th day of May 2010.

Commissioner Munir Muhammad

Commissioner Diane Viverito

Commissioner Nabi Fakroddin